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10/532909  
PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/532909 ✓ Confirmation No. N/A  
Applicant : Robert Frigg et al.  
Filed : April 27, 2005  
TC/A.U. : N/A  
Examiner : N/A  
  
Title : DEVICE FOR THE TREATMENT OF FRACTURES OF  
THE FEMUR  
Docket No. : LUS-16024  
Customer No. : 040854

LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madam:

Enclosed herewith is an English translation of the International Preliminary Examination Report for filing in the above-identified application.

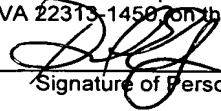
Respectfully submitted,

RANKIN, HILL, PORTER & CLARK LLP

By   
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

  
\_\_\_\_\_  
Signature of Person Mailing Paper  
6/21/05 Date David E. Spaw Printed Name of Person Mailing Paper

**Translation**

PATENT COOPERATION TREATY

PCT/CH2002/000584



**PCT**

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1978/PCT	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/CH2002/000584	International filing date (day/month/year) 29 October 2002 (29.10.2002)	Priority date (day/month/year)
International Patent Classification (IPC) or national classification and IPC A61B 17/74		
Applicant MATHYS MEDIZINALTECHNIK AG et al.		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>1</u> sheets, as follows:             <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ul>
4.	This report contains indications relating to the following items: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the report</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>

Date of submission of the demand 24 May 2004 (24.05.2004)	Date of completion of this report 04 February 2005 (04.02.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/CH2002/000584

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

- ☒ The international application as originally filed/furnished
- ☒ the description:
- pages \_\_\_\_\_ 1-8 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- pages \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ 1-10 \_\_\_\_\_, as amended (together with any statement) under Article 19
- pages\* \_\_\_\_\_ 11-17 \_\_\_\_\_ received by this Authority on \_\_\_\_\_ 14 July 2004 (14.07.2004)
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- pages \_\_\_\_\_ 1/5-5/5 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/CH 02/00584

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-17	YES
	Claims		NO
Inventive step (IS)	Claims	1-17	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-17	YES
	Claims		NO

### 2. Citations and explanations

- The subject matter of claim 1 is novel and inventive (PCT Article 33(2) and (3)). The reasons are as follows:

US-A-5454813 is considered to be the closest prior art.

The invention, and the difference, is considered to lie in the fact that the sliding sleeve has an outer surface with a noncircular cross section and an inner surface with a circular cross section, and in that locking means are provided in order selectively to lock the longitudinal bone fixation member against rotation in the sliding sleeve.

The bone fixation member is thereby optimally anchored in the cancellous bone of the head of the femur, since the shaft of the longitudinal bone fixation member remains rotationally movable in the sliding sleeve surrounding it and since the sliding sleeve remains axially movable with the longitudinal bone fixation member disposed therein. The surgeon can therefore still make rotational corrections to the head of the femur before he locks the

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/CH 02/00584

longitudinal bone fixation member against rotation by screwing a fixation screw (locking means), using a lateral approach, into the bore of the shaft of the longitudinal bone fixation member.

The teaching of US-A-5454813 points towards locking against rotation (see column 3, lines 56 to 62). An inventive step is therefore acknowledged (PCT Article 33(3)).

2. Since independent claim 1 is novel and inventive (PCT Article 33(2) and (3)), dependent claims 2 to 17 are also novel and inventive (PCT Article 33(2) and (3)).
3. Claims 1 to 17 are industrially applicable (PCT Article 33(4)).

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